

Atty. Dkt. No. 039153-0433 (C167596-CIP)

***IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

Applicant: Sander, et al.

Title: MINIMIZING TRANSISTOR  
SIZE IN INTEGRATED  
CIRCUITS

Appl. No.: 10/042,732

Filing Date: 4/25/2001

Examiner: Nguyen, T.

Art Unit: 2813

<b>CERTIFICATE OF FACSIMILE TRANSMISSION</b>	
I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below.	
<u>Cindy LaLuzerne</u> (Printed Name)	
<u>Cindy LaLuzerne</u> (Signature)	
June 18, 2004 (Date of Deposit)	

RECEIVED  
CENTRAL FAX CENTER

JUN 21 2004

**RESPONSE TO RESTRICTION REQUIREMENT**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**OFFICIAL**

Sir:

In response to the restriction requirement set forth in the Office Action mailed May 18 2004, Claims 19-38 are subject to a Restriction Requirement. The Examiner states:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 19-24, drawn to an integrated circuit, classified in class 257, subclass 382.
- II. Claims 24-38, drawn to method of manufacturing an integrated circuit, classified in class 438, subclass 618.

Atty. Dkt. No. 039153-0433 (C167596-CIP)

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (I) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the product can be formed materially different process, for example, forming conductive layer in the opening by sputtering deposition.

Applicants respectfully traverse the Restriction Requirement.

Applicants provisionally elect the claims to Group 1, Claims 1-19.

Applicants note that Claims 24-38 are not drawn to a method. Claims 24-38 are drawn to an integrated circuit which is manufactured by a method. This is a product by process claim. Product-by-process claims are not limited to a particular process. MPEP § 2113 states; "Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its methods of production." Accordingly, the restriction of Claims 24-38 from 19-24 is improper, withdrawal of the Restriction Requirement is respectfully requested.

Respectfully submitted,

Date 6-18-04

By Joseph N. Ziebert

FOLEY & LARDNER LLP  
Customer Number: 34083  
Telephone: (414) 297-5768  
Facsimile: (414) 297-4900

Joseph N. Ziebert  
Attorney for Applicant  
Registration No. 35,421

RECEIVED  
CENTRAL FAX CENTER

JUN 21 2004



Patent Technology Center 2800

OFFICIAL

Facsimile Transmission

To: Name: central fax  
Company:  
Fax Number: 703 872-9306  
Voice Phone:

From: Name:  
Official Fax Number: (703) 872-9318  
Official After Final Fax Number: (703) 872-9319  
Voice Phone:

37 C.F.R. 1.6 sets forth the types of correspondence that can be communicated to the Patent and Trademark Office via facsimile transmissions. Applicants are advised to use the certificate of facsimile transmission procedures when submitting a reply to a non-final or final Office action by facsimile (37 CFR 1.8(a)).

Fax Notes:

---

---

Date and time of transmission: Monday, June 21, 2004 6:25:36 AM  
Number of pages including this cover sheet: 04

---

**FOLEY**

FOLEY & LARDNER LLP  
ATTORNEYS AT LAW

777 EAST WISCONSIN AVENUE  
MILWAUKEE, WISCONSIN 53202-5306  
TELEPHONE: 414.271.2400  
FACSIMILE: 414.297.4900  
WWW.FOLEY.COM

Total # of Pages 3 (Including this page)

TO:	PHONE #:	FAX #:
Examiner Thanh Nguyen United States Patent and Trademark Office	571-272-1695	571-273-1695

From : Joseph N. Ziebert  
 Email Address : jziebert@foley.com  
 Sender's Direct Dial : 414.297.5768  
 Date : June 18, 2004  
 Client/Matter No : 039153-0433  
 User ID No : 833

**MESSAGE:**

This is regarding Application Serial No. 10/042,732.

<b>CERTIFICATE OF FACSIMILE TRANSMISSION</b>	
I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below.	
<i>Cindy LaLuzerne</i> (Printed Name)	
<i>Cindy LaLuzerne</i> (Signature)	
June 18, 2004 (Date of Deposit)	

If there are any problems with this transmission or if you have not received all of the pages, please call 414-297-5313.

Operator:	Time Sent:	Return Original To:

CONFIDENTIALITY NOTICE: THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS INTENDED ONLY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE DESIGNATED RECIPIENT'S NAMED ABOVE. THIS MESSAGE MAY BE AN ATTORNEY-CLIENT COMMUNICATION, AND AS SUCH IS PRIVILEGED AND CONFIDENTIAL. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR ANY AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT YOU HAVE RECEIVED THIS DOCUMENT IN ERROR, AND THAT ANY REVIEW, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US BY MAIL. THANK YOU.